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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,771	07/02/2001	Katsuyoshi Tanaka	33688	2848

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER	
REFAI, RAMSEY	

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/898,771	TANAKA, KATSUYOSHI
	Examiner	Art Unit
	Ramsey M Refai	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 July 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☒ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/09/03,08/24/04,07/02/01*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-14 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Normalization process of computers and charging operation process are not described in the specification in such a way to enable one skilled in the art to understand the claimed invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4, 9, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by AAPA (Applicant Admitted Prior Art).

6. As per claim 1, AAPA teaches a job distributed processing method in that a plurality of computers having the respective pre-selected resource amounts are connected through a network to each other, and an entered job to any of said plural computers are distributed so as to execute the entered job, said job distribution processing method comprising the steps of:

storing a job execution history as to a plurality of jobs, which were executed in the past in each of said computers **(paragraph [0006 and 0011])**;

referring to said job execution history to select a computer such that when an execution-subject job is executed, said execution-subject job does not exceed the resource amount stored by said computer **(paragraph [0005-0006 and 0011])**; and

distributing said execution-subject job to said selected computer **(paragraph [0005])**.

7. As per claim 4, AAPA teaches when there is no job which was executed in the past and is resembled to said execution-subject job, a selection is made of such a computer that a ratio of the used resource amount with respect to the total resource amount saved by said computer becomes minimum, and also a load thereof becomes minimum, and the entered job is distributed to said selected computer **(paragraph [0005])**.

8. As per claim 9 and 12, the claims contain similar limitations as claims 1 and 4 above, therefore are rejected under the same rationale.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 2-3 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art).

11. As per claim 2, AAPA teaches:

predicting a resource amount required when said execution-subject job is executed, by selecting a job from said job execution history, and said job is resembled to said execution-subject job and was executed in the past **(paragraph [0005])**; and

managing both a total resource amount possessed by each of said plural computers and also used resource amounts used by the respective computers **(paragraph [0005])**

executing a job selecting method to select a computer such that a summed resource amount does not exceed the total resource amount of said computer, and further, a load thereof becomes minimum, said summed resource amount being calculated between the predicted

resource amount of the execution-subject job and the used resource amount obtained with reference **(paragraphs [0005-0006 and 0011-0012])**; and

distributing said job to said selected computer **(paragraph [0005])**.

12. AAPA fails to teach managing resource information in the format of a server resource management table.

13. However, it would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to organize the resources on a server in a table format because it would provide an organized way to locate data quickly and efficiently.

14. As per claim 3, AAPA teaches selecting the job, which was executed in the past and is resembled to execution-subject job, while referring to the respective items of a comment in which a name of a job, a name of a job execution request person, a job execution request day, and a feature of a job are described **(paragraph [0006 and 0011])**.

15. As per claims 10-11, the claims contain similar limitations as claims 2 and 3 above, therefore are rejected under the same rationale.

16. Claim 5 –8 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art), as applied to claim 1 above, and in view of Block et al (U.S. Patent No. 6,658,473).

17. As per claim 5, AAPA teaches a charging process operation is carried out with respect to each of users of the respective computers based on said actual use data **(paragraphs [0011-0012]).**

18. AAPA fails to teach that capabilities of the respective computers are normalized while a capability of a specific computer is used as a reference; actual use data normalized from said job execution history is totalized/processed based upon the normalized computer capability;

19. However, Block et al teach that servers have different capabilities **(column 1, lines 25-40).** The desirabilities for servers are computed. Servers determined to be heavily loaded receive lower desirability. The relative desirabilities are normalized to a predetermined range **(column 14, lines 7 – 42)**. It would have been obvious to one of the ordinary skill in the art to at the time of the applicant's invention to combine the teachings of AAPA and Block et al because Block et al's use of normalizing servers would allow for computers in AAPA's system to receive a rating depending on there resource availability thereby allowing for jobs to get distributed to computers which have a lower rating (lighter loaded) to execute jobs efficiently.

20. As per claim 6, AAPA teaches the charging process operation is carried out with respect to the user of each of the respective computers based upon a total expense required when each of said computers is conducted **(paragraph [0005])**, a total expense required when each of said computers is operated CPU time used by each of said jobs **(paragraph [0006])**, and an actual memory amount used by each of said jobs **(paragraph [0004])**.

21. As per claims 7-8, the claims contain similar limitations as claims 5 and 6 above, therefore are rejected under the same rationale.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Miloslavsky (U.S. Patent No. 6,128,646)

b. Kavak (U.S. Patent No. 6,687,731)

c. Komissarchik et al (U.S. Patent No. 6,744,878)

d. Bournas (U.S. Patent No. 6,748,413)

e. Combs et al (U.S. Patent No. 6,766,348)

f. Iwata (U.S. Patent No.6,760,314)

g. Vu et al (U.S. Patent No. 6,587,436).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey M Refai whose telephone number is (703) 605-4361 (after November 1, 2004, (571) 272 – 3975). The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey M Refai
Examiner
Art Unit 2154

RMR
September 22, 2004